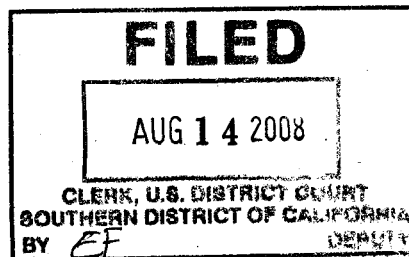


1 KAREN P. HEWITT
 United States Attorney
 2 FRED SHEPPARD
 Assistant United States Attorney
 3 California State Bar No. 250781
 United States Attorney's Office
 4 Federal Office Building
 880 Front Street, Room 6293
 5 San Diego, California 92101
 Telephone: (619) 557-7176

6 Attorneys for Plaintiff
 7 UNITED STATES OF AMERICA



8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 MARTINA DOLORES MURILLO,

14 Defendant.

Magistrate Case No. 08MJ8682
 08CR2754-DMS

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

(Pre-Indictment Fast-Track Program)

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Fred
 18 Sheppard, Assistant United States Attorney, and defendant MARTINA DOLORES MURILLO, by
 19 and through and with the advice and consent of defense counsel, Leila W. Morgan, that:

20 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 21 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 22 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 23 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 24 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
 25 § 1324(a)(1)(A)(i) and (v)(II).

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2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than five business days before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before September 3, 2008.

4. The material witness, Guadalupe Galindo-Gonzalez, in this case:

a. Is an alien with no lawful right to enter or remain in the United States;

b. Entered or attempted to enter the United States illegally on or about July 31, 2008;

c. Was found near the international border with Mexico and was being guided by defendant, and defendant knew of the fact that she was an alien with no lawful right to enter or remain in the United States;

d. Was paying \$1,800 to others to be brought into the United States illegally and/or transported illegally to their destination therein; and,

e. May be released and remanded immediately to the Department of Homeland Security for return to her country of origin.

5. After the material witness is ordered released by the Court pursuant to this stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws ^{her} ~~his~~ guilty plea to that charge, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

//

Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Martina Dolores Murillo

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
 3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
 4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
 6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
 7 further that defendant has discussed the terms of this stipulation and joint motion with defense
 8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 10 immediate release and remand of the above-named material witness(es) to the Department of
 11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

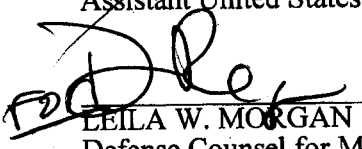
13 Respectfully submitted,

14 KAREN P. HEWITT
 United States Attorney


15
 16 Dated: 8/14/08.

17 
 FRED SHEPPARD
 Assistant United States Attorney

18
 19 Dated: 8/10/08.

20 
 LEILA W. MORGAN
 Defense Counsel for Martina Dolores Murillo

21
 22 Dated: 8/10/08.

23 
 MARTINA DOLORES MURILLO
 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 8-14-08


United States Magistrate Judge